

BEFORE THE  
**Federal Communications Commission**

WASHINGTON, D.C. 20554

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In the Matter of )

Policies and Rules Implementing )  
the Telephone Disclosure and )  
Dispute Resolution Act )

CC Docket No. 93-22

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

OCT 11 1994

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Comments on the Further Notice of Proposed Rulemaking  
of the  
INTERNATIONAL COMMUNICATIONS ASSOCIATION

The International Communications Association (ICA) hereby submits its comments in support of the rule changes proposed by the Commission in its Further Notice of Proposed Rulemaking (Further Notice), released August 31, 1994 in the above-captioned proceeding.<sup>1</sup> The Commission proposed to clarify and enhance its rules in Subpart O of Part 64, implementing the Telephone Disclosure and Dispute Resolution Act of 1992 (TDDR Act)<sup>2</sup> which added Section 228 to the Communications Act of 1934.

Specifically, the Commission is attempting to ensure that providers of information using toll-free 800 numbers cannot establish a billing relationship with the user of a telephone number merely by virtue of an 800 call being placed to the 800 service and the establishment of a personal identification number (PIN).

The ICA is the largest association of telecommunications users in the world. Our estimates indicate that ICA members spend over \$20-billion each year on telecommunications services and

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<sup>1</sup> Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act, CC Docket No. 93-22, FCC 94-200 (1994) (Order on Reconsideration and Further Notice of Proposed Rulemaking).

<sup>2</sup> Pub. L. No. 192-556, 106 Stat. 4181 (1992) (codified at 47 U.S.C. § 228).

equipment. The bylaws of the ICA exclude any firm that is predominantly engaged in the production, sale or rental of communications services or equipment from eligibility for membership. Like many other telecommunications users.<sup>3</sup> A number of ICA members have reported increasing problems with the fraudulent use of 800 numbers to establish billing arrangements that attempt to circumvent the requirements of the TDDR Act.

As noted in the Bureau's June 15th letter, when an individual, who could be a company employee, or student or any other person with access to a particular telephone, dials 800 numbers for certain information services, the providers of the services read the ANI of the originating telephone line and then immediately issue a PIN to a caller without ascertaining that the individual is both the subscriber to the originating line and legally capable of entering into a contractual agreement with the [provider]. The subscriber to the originating line is then charged for a call to the [service] on the basis of the ANI.

ICA believes this problem has been growing since shortly after the enactment of the TDDR Act in 1992, but it is difficult to ascertain precisely how extensive carrier-billed charges for such calls has become. It is difficult for many users to detect fraudulent billing based upon the PIN numbers. Many ICA members lack the resources to itemize each and every one of their telephone bills for such charges. However, based upon the limited information we have received to date, ICA estimates that such charges may cost its members between \$10-million and \$12-million dollars a year. Losses among the total population of business and residential users are likely to be far greater. Additionally, some ICA members report that the number of such charges has continued to grow even since the

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<sup>3</sup> See Letter dated June 15, 1994 from Gregory A Weiss, Acting Chief, Enforcement Division, Common Carrier Bureau to Randall R. Collett, Executive Vice President, Association of College and University Telecommunications Administrators.

release of the June 15th letter.

ICA also believes that billing information services through PIN numbers assigned via 800 numbers undercuts the public's awareness that "800" calls are supposed to be toll-free. That 800 numbers are very valuable for their intended purposes was made clear by the substantial involvement of ICA members and other 800 users in the process which led to the establishment of 800 number portability, in CC Docket 86-10 and related proceedings. It is true that the 800 call is still paid by the party that has the 800 number, rather than the caller, but this distinction may well be lost upon the average telephone user, when he or she receives a telephone company-billed charge that appears to be connected with an 800 number. Telecommunications users and the telecommunications industry have a significant stake in the further development of the toll-free calling market; the value of this market segment could well be impaired by these practices that the Further Notice is designed to address. Clearly, it is appropriate for the Commission to impose more specific controls on the use of such arrangements.<sup>4</sup>

Therefore, ICA believes that the proposed rules should be adopted as written by the Commission. The revised requirements seem to be carefully devised to root out the problem. ICA particularly supports the provision in proposed Section 64.1501(b) that presubscription agreements be executed in writing and the specification in Section 64.1510(b)(1) that billing common carriers must obtain evidence that a valid presubscription agreement exists. Some common carriers may note that some of the provisions of Section 1510(b)(2) may require them to incur additional costs or may preclude their offering of these services to certain information providers. ICA believes that such

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<sup>4</sup> ICA categorically endorses the views set forth by Congressman Edward J. Markey, Chairman of the House Subcommittee on Telecommunications and Finance in his letter of July 14, 1994 to Chairman Hundt.

arguments would not constitute an appropriate reason for watering down the requirements. Any added costs that these provision impose on common carriers should be collected only through charges levied on the actual providers of the information services, consistent with cost causation. Even if the proposed rules were to curtail the use of common carrier billing and collections services for some of these information services, ICA believes that the balance of the public interest still favors adopting the rules as proposed by the Commission.

WHEREFORE, the International Communications Association commends the Commission for proposing to clarify its rules and respectfully requests the Commission adopt as soon as possible proposed rules to prevent mis-use of toll free 800 numbers consistent with ICA's above comments and the revisions contained in Appendix C of the Further Notice.

Respectfully Submitted,

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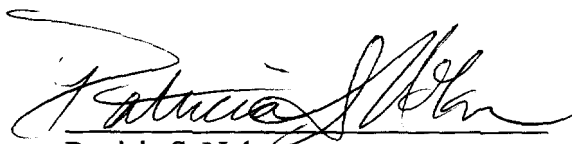
**CERTIFICATE OF SERVICE**

I, Patricia S. Nolan, hereby certify that a true and correct copy of the of the foregoing  
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